IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Income Tax Appeal No. 735 of 2000

The Commissioner of Income Tax, Mumbai .. Appellant
V/s.
Backau Wolf India Ltd., Mumbai .. Respondent

Mr. A.K. Kotangale for the Appellant
Mr. F.B. Andhyarjuna, Sr. Counsel with Ms. R.M. Sidhwa for the Respondent

CORAM : S. RADHAKRISHNAN &
A.S. AGUIAR, JJ.
DATED : 20.06.2005.

P.C.:-

1. Heard the learned counsel for the Appellant and the Respondent. By the above Appeal, the Revenue is seeking to raise the following question of law:-

> "Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in holding that the A.O. had no jurisdiction to issue notice u.s. 147(a) of the I.T. Act on the ground that at a later stage when A.O. found that the assessee made direct payment to G.T.C. the A.O. cannot jump to the conclusion about income escaping assessment?"

2. The learned counsel for the Appellant took us through the order passed by the Income Tax Appellate Tribunal dated 9.9.1999. The Tribunal has categorically observed that there is no material based on which it could be said that there were reasons to believe that the income chargeable to tax escaped the assessment. There is no dispute that all the books of accounts and also the details of the payments were duly furnished. The only fact which was not disclosed was GTC was Sub-Contractor to Macmet, however payment made

by the Respondent to GTC was fully disclosed, as the same was disclosed in the books of accounts.

3. Under these circumstances, in the above it is only the question of appreciation of facts and finding of facts. There is no substantial question of law involved in the above. The Appeal stands dismissed.

(S. RADHAKRISHNAN, J.)

(A.S. AGUIAR, J.)